

## USFWS New York Field Office “Superfund” Activities

In 1980 the U.S. Congress passed the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), commonly referred to as “Superfund.” CERCLA was subsequently amended by the Superfund Amendments and Reauthorization Act of 1986 (SARA). CERCLA, as amended by SARA, established the Hazardous Substance Superfund for the investigation and clean-up of contaminated sites. The United States Environmental Protection Agency (EPA) is responsible for managing the Superfund program. The EPA lists the nation's most serious hazardous waste sites on the National Priorities List (NPL). These Superfund sites are eligible for Federally funded clean-up, but whenever possible the EPA requires the parties responsible for site contamination to fund the remedial investigations and activities. The NPL numbers 1,229 sites listed as final nationwide as of January 3, 2001. As of that date, there were an additional 67 sites proposed to be added to the NPL and awaiting final action by the EPA.

In New York State a total of 100 sites have been or are listed on the NPL. Currently, there are 86 sites in New York State listed (as final) on the NPL, including four Federal Facilities. Fourteen additional sites in New York previously listed on the NPL have now been deleted from the NPL (Action Anodizing, Plating and Polishing, Inc., Anchor Chemicals, BEC Trucking, Bioclinical Laboratories, Inc., C&J Disposal Leasing Co., Clothier Disposal, Conklin Dumps, Katonah Municipal Well, Kenmark Textile Corporation, Marathon Battery Corporation, Radium Chemical, Suffern Village Well Field, Vestal Water Supply Well 4-2, and Wide Beach Development). Three additional sites in New York State are proposed for addition to the NPL. Those proposed sites are: the Hudson Technologies, Inc. site, proposed as of May 11, 2000; the Consolidated Iron & Metal, Inc. site, proposed as of December 1, 2000; and, the Shenandoah Road Ground Water Contamination site, proposed as of January 11, 2001.

The Service has dual roles under CERCLA:

- < A member of the Biological Technical Assistance Group (BTAG). The BTAG was established by the EPA to assist in the evaluation of the environmental impacts of Superfund sites. Through BTAG, the Service provides expert technical assistance to the EPA on all fish and wildlife resources potentially impacted by site contamination and remediation.
- < A trustee of natural resources (as the Department of the Interior (DOI)) for the people of the United States. Service trust resources include migratory birds, anadromous fish, Service lands, and Federally threatened and endangered species. Service responsibilities include the protection of habitat for these species.

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## **BTAG ACTIVITIES**

The Service first attempts to protect fish and wildlife resources through the BTAG by focusing on opportunities to include protective measures within the clean-up process overseen by the EPA. Through the Service's standing membership on the BTAG we have made recommendations which have resulted in substantial benefits to the environment and fish and wildlife resources.

- < At the 102nd Street Landfill Site, at the strong recommendation of the BTAG, a proposed bulkhead was relocated shoreward saving 3 acres of prime spawning habitat for muskellunge and other fish species in the Niagara River. Additionally, dredging resulted in the removal of all surficial site-related contaminated sediments from an approximately 10 acre embayment adjacent to the site which was be replanted with buds of wild celery, a valuable wildlife plant. Clean-up of the site is nearing completion. BTAG involvement in this site facilitated settlement of a natural resource damage claim for about \$508,000.
- < At the Batavia Landfill Site, in response to concerns expressed by the BTAG, additional areas of contaminated sediments will be removed from wetlands at the Site and the Potentially Responsible Parties (PRPs) have agreed to create 3 acres of wetlands on-Site as compensation for remedial impacts. Additionally, the PRPs have agreed to plant and maintain the landfill cap required as remediation in a fashion that benefits migratory birds, further providing habitat for DOI trust resources. Remediation of the site is in progress. BTAG involvement in this site facilitated settlement of a natural resource damage claim.

## **TRUSTEE ACTIVITIES**

As a natural resource trustee, the DOI, through the Service, seeks compensation from the PRPs for injuries to its trust resources that cannot be addressed through the Superfund clean-up process. Under its authority as a trustee the DOI, through the Service, conducts natural resource damage assessments and provides recommendations regarding the granting to PRPs of Covenants Not To Sue for natural resource damages. Monies recovered for natural resource damages are used to restore injured habitats and fish and wildlife resources.

The NYFO is engaged in ongoing Natural Resource Damage Assessments for:

- < the Niagara River and Lake Ontario;
- < the Hudson River;
- < Jamaica Bay; and,
- < the St. Lawrence River.

Each of these four damage assessments has been funded through the DOI's Natural Resource Damage Assessment and Restoration (NRDAR) Fund. The NYFO has also received NRDAR Fund support for site assessment work at the York Oil Site, and the Richardson Hill Road and Sidney Landfill Sites. Assessment work is ongoing at a number of other NPL and non-NPL sites in New York State.

The DOI, through the work of the NYFO, has settled its natural resource damage claims for a number of Superfund sites in New York State, including the following:

- < Applied Environmental Services, Inc. (Nassau County): A \$50,000 settlement will be used to restore saltmarsh habitat on Long Island. The National Oceanic and Atmospheric Administration (NOAA) is a co-settling trustee with the DOI.
- < Brewster Wellfield (Putnam County): A \$20,000 settlement will be used to restore wetlands, including those which provides habitat for the bog turtle (*Clemmys muhlenbergii*), listed as a threatened species on the *Federal List of Endangered and Threatened Wildlife and Plants*. New York State (NYS) is a co-settling trustee with the DOI for this site.
- < Cortese Landfill (Sullivan County): An approximately \$85,000 settlement will be used for restoration of wetland habitat.
- < Hi View Terrace (Erie County): A \$25,000 settlement will be used to restore and/or protect creek habitat in western New York State.
- < 102nd Street Landfill (Niagara County): An approximately \$508,000 settlement will be used to restore riverine habitats and emergent wetlands. NOAA and NYS are co-settling trustees with DOI for this Site.
- < Love Canal (Niagara County): A \$375,000 settlement will be used to restore creek habitat in Niagara County. NOAA is a co-settling trustee with the DOI for this site.
- < Wide Beach Development (Erie County): An approximately \$60,000 settlement will be used to restore wetlands on the Lake Erie shoreline. Other trustees involved in this settlement are the Seneca Nation of Indians and NOAA.

Negotiations for other natural resource damage settlements are ongoing and will result in the accomplishment of additional habitat restoration work in New York State.